IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

* * * * *

C.W.P NO. 5272 OF 2006

Date of decision : September 25, 2006

* * * * *

M/s. Capital Vehicle Sales Pvt. Ltd. .....Petitioner

Vs.

The State of Haryana .....Respondents

* * * * *

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S BHALLA

Present: Mr. Sanjay Kaushal, Advocate and Mr. Amitabh Chaturvedi, Advocate for the petitioner(s).

Mr. Ashok Jindal, Additional Advocate General, Haryana, for respondent no.1.

Mr. A.K Pathania, Advocate for respondents no. 2 & 3.

Mr. M.L Sarin, Senior Advocate with Mr. Ashim Aggarwal, Advocate for respondent no.4.

* * * * *

Viney Mittal, J. (Oral)

The petitioner-Company has challenged the show cause notice dated July 18, 2005 (Annexure P-3) and the order dated March 1, 2006 (Annexure P-4) issued by the Haryana State Industrial Development Corporation Limited-respondent no.2 whereby the plot no.48, Udyog Vihar, Phase-IV, Gurgaon has been ordered to be resumed and the allottee-respondent no.4 has been directed to hand over the vacant possession.

It has been claimed by the petitioner-Company that it is a tenant in the aforesaid plot and as such the resumption order passed qua the said plot, without affording an opportunity of hearing to the petitioner-Company, is totally unjustified and unsustainable. The petitioner-Company claims that respondent no.4-Company is itself an allottee/tenant in the aforesaid plot. Various pleas have been raised in the present petition while challenging the resumption order.

During the course of arguments, learned counsel appearing for the parties have jointly informed the Court that an appeal filed by respondent no.4-Company challenging the resumption order is already been pending before the appellate authority and has not been finally disposed of. Learned counsel appearing for the respondent-HSIDC has also brought to the notice of the Court that the matter qua the resumption is also pending consideration before the Arbitral Authority in terms of the arbitration agreement between the HSIDC and respondent no.4.

A short reply on behalf of respondent no.4 has also been filed in Court today. Along with the aforesaid reply, copy of an order dated 1.5.2006 passed by the learned Civil Judge (Sr. Division) in Civil Suit No.98 of 2006 has been appended as Annexure R-4/1. As per the agreement between the petitioner-Company and respondent no.4-Company, the petitioner-Company appears to have consented to vacate the premises in question on or before December 31, 2006.

After hearing the learned counsel for the parties and keeping in view the facts and circumstances of the case and also the fact that the validity of the resumption order is already under adjudication before the appellate authority, we dispose of the present petition with a liberty to the petitioner-Company to also challenge the aforesaid resumption order by filing an appeal before the appellate authority. If any such appeal is filed by the petitioner-Company before the appellate authority within a period of three weeks from the date a certified copy of this order is received, then the appellate authority shall decide the said appeal along with the appeal filed by respondent no.4, which is stated to be still pending, by passing a detailed and speaking order. For a period of 6 weeks from the date a certified copy of the order is received, the dispossession of the petitioner-Company from the plot in question shall remain stayed.

A copy of the order be given dasti on payment of the usual charges.

(VINEY MITTAL)
JUDGE

September 25, 2006
ritu

(H.S BHALLA)
JUDGE